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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/081,254

02/22/2002

Bernard F. Garceau

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT

PAPER NUMBER

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
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3 MONTHS

02/09/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/09/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com  
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# Office Action Summary

Application No.

10/081,254

Applicant(s)

GARCEAU ET AL.

Examiner

Chapman E. Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 14-17, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schittenhelm (3746362) in view of Dussai et al (5795028) and Herman (4087942).

Schittenhelm discloses a trailer frame comprising:

1. at least two longitudinal members 11/12
2. at least two cross members 15/16 attached to the longitudinal members
3. two A-frame members; each having one end fastened to one of the longitudinal members assumably by bolts and the other ends fastened to each other by bolts
4. the angle formed between the A-frame and the cross members 12 is not shown as 90 degrees. The drawings have been rightfully considered as a part of the disclosure. See figures 1 and 6
5. Brackets 18. Figure 1 shows corner brackets near element 18 or at the junction of the A-frame member to the cross member. See figures 1 and 6
6. the A-frame and cross members are traditionally constructed from I beams well known to have an upper flange which would be capable of

mating with the third side of the bracket of Dussia, jr. et al. note: applicant is not claiming a method of making.

Dussai et al discloses a universal bracket meaning the same has many applications and is readily adopted to many structural apparatus.

Dussia et al discloses a "*universal*" reinforcing bracket for frame 44 that bolts onto another frame 48 or 44 at a junction between two frame members; the frame comprises;

- A first side 52 adapted to bolted to a first frame 44
- a second side 54 extending at an angle from the first side and adapted to bolt to a second frame 48
- a third side 62 adapted to bolt to a flange of another frame member
- the first and second sides each have an inner an outer surface
- the third side is bilaminar having a first layer extending from the first side and a second layer extending from the second side
- the third side includes an aperture 64
- the sides includes vertically aligned apertures
- the bracket fastens to the frame at an angled junction of the frame member 44 and the cross member 48
- the apertures on the bracket mate with those on the frame, both the longitudinal 44 and cross members 48

Humprey discloses an adjustable bracket for frames capable of assuming many angular positions between frame parts; see figures 1 and 2

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Dussai et al lacks the dimples forming a recess on the inner surface and a projection on the outer surface with an aperture formed therein. Hermann discloses a bracket with a dimple and an aperture formed in the dimple for securing to another structural member. The dimples from the bracket are in nested engagement with those from the door frame. The bracket of Herman includes a plurality of dimples and Dussai discloses a bracket with apertures 6 on the left and right sides which are vertically stacked.

It would have been obvious to one of ordinary skill in the art to modify Schittenhelm to use an adjustable bracket with the recited limitation and to include the mating dimple connection to provide a stronger attachment between the bracket and frame and in order to reinforce the frame member in the corner area thereof.

Dussai et al discloses bolts to secure frame and bracket parts together. To provide a motivation, it would have been obvious to secure frame and bracket parts using bolts which provide an additional, convenient and standard method of attaching mechanical elements together.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schittenhelm (3746362) in view of Dussai et al (5795028) and Herman and further in view of Humphrey (4148164).

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Schittenhelm does not disclose lacks the bracket with the first and second sides of an angle greater than, less than or equal to 90 degrees. One of ordinary skill in the art would have appreciated positioning the sides of the bracket at any angle accommodating the angle of the joining frame portions as shown by Humphrey. With the adjustable bracket of Humphrey, the angle between the frame portions can assume any measure as the user desires given the adjustable nature of the bracket.

One of ordinary skill in the art would have appreciated positioning the sides of the bracket at any angle accommodating the angle of the joining frame portions as shown by Humphrey.

Dussai et al and Humphrey discloses bolts to secure frame and bracket parts together. To provide a motivation, it would have been obvious to secure frame and bracket parts using bolts which provide an additional, convenient and standard method of attaching mechanical elements together.

### ***Response to Arguments***

Applicant's arguments filed 11/10/06 have been fully considered but they are not persuasive.

Applicant argues that the ultimate determination of whether an invention is or is not obvious is a legal conclusion based on underlying factual inquiries, including (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art and (4) the objective evidence of non-obviousness. Regarding element (1) the scope of the prior art concerns itself with frame articles and methods of connecting and securing the parts of

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the frame articles together: Regarding element (2) the scope of the prior art is concerned with a diverse mechanical engineer having general knowledge of frames and the two prior art references; (3) the differences are concerned with the various ways to secure the elements or parts of the frame together; (4) the objective evidence of non-obviousness is not viewed in the above rejection. Applicant proposes such in the arguments to the office action. The examiner does not share the same opinion of the the office action.

Applicant further argues that the examiner does not establish a prima facie case of obviousness and further argues that the examiner is using hindsight. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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*Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation was found from what is known in the art itself. See motivation statements above. It is clear from any mechanical engineer that the brackets reinforce and strengthen the frame structure. In response to applicant's argument that the prior art is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, it is clear from the prior art that the frames are not limited to a particular use, environment or structure; the same may be stated of the brackets that accompany the frames.

Concerning arguments regarding reasonable expectation of success; again frames and there accompanying brackets securing the frame elements or parts together have been used for year. See cited prior art. A particular bracket maybe mated with a frame and directed to its intended use to be the most effective.

Dussai et al and Humfrey discloses bolts to secure frame and bracket parts together. To provide a motivation, it would have been obvious to secure frame and bracket parts using bolts which provide an additional, convenient and standard method of attaching mechanical elements together.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.



Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

  
JEANETTE CHAPMAN  
PRIMARY EXAMINER  
ART UNIT 3635

jec